IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 17764 of 2004

Between:

Mr.Abdul Wali Farooqui, s/o late M.A.Aziz Farooqui, Electrical Contractor, r/o H.No.12-2-399/1, situated near Markandeya Nagar, Talagadda, Hyderabad.

..... PETITIONER

AND

1 Central Power Distribution Company Limited, rep., by its Managing Director, Vidyut Soudha,
Khairatabad, Hyderabad-28.
2 Asst.Engineer, APCPDCL, Asif Nagar, Section 17, Hyderabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to pass order, direction or writ particularly one in the nature of writ of mandamus directing the respondent to act according to law and further declare the impugned letter bearing No.LR No.AAE/OP/ASIFNAGAR/D.No.215 dated 24-8-2004 issued by the 2nd respondent is illegal, void, arbitrary, un enforceable.

Counsel for the Petitioner: MR.BHASHEER MOHD KHAN

Counsel for the Respondents 1 & 2: SMT.M.VINOBHA DEVI

S.C. for APTRANSCO

The Court at the stage of admission made the following ORDER:

Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents.

The petitioner filed this writ petition aggrieved by the letter dated 24-8-2004 issued by the second respondent-Assistant Engineer, APCPDCL, Asif Nagar, Section 17, Hyderabad intimating the petitioner that the power supply provided to his premises on 30-07-2004 stands cancelled.

In the affidavit filed in support of the writ petition, it is stated that in pursuance of the request made by the petitioner on 12-03-2004 along with necessary documents and requisite fee, the second respondent provided the electricity supply to his premises bearing No.12-2-399/1, situated near Markandeya Nagar, Tallagadda, Hyderabad and he has been paying the consumption charges regularly. While so, the impugned letter dated 24-08-2004 was issued and immediately thereafter, the power supply was disconnected. Under the impugned letter, the petitioner was informed that one V.Bharatamma is entitled for service connection at H.No.12-2-398/83 as she is the owner of the property and therefore the meter fixed on the application of the petitioner at H.No.12-2-399/1 sands cancelled.

The petitioner states that no notice was issued to him before passing the impugned letter and that Smt.V.Bharathamma, whose name is mentioned in the impugned letter describing her as the owner of the premises has nothing to do with the premises in question and therefore, the impugned action of the respondents is

arbitrary, illegal apart from being in violation of the principles of natural justice.

On behalf of the respondents, a counter affidavit has been filed stating that after providing the service connection to the petitioner, Smt.V.Bharathamma made an application before the second respondent not to release the power supply to the petitioner stating that she is the owner of the premises bearing No.12-2-398/83 and that the petitioner has misrepresented the premises as 12-2-399/1. She also produced documents, which show that she is the successor of the said premises by virtue of registered sale deed executed in favour of her husband late V.Parvathalu and that she also filed O.S.No.4050 of 2003 against the officials of M.C.H. and other private persons seeking injunction restraining them from demolishing the compound wall and temporary injunction was granted in I.A.No.513 of 2004, which is still subsisting. It is stated that the petitioner also filed O.S.No.2128 of 2004 against Smt.V.Bharathamma seeking injunction, but no orders have been passed by the civil Court so far. It is further stated that the Chief Executive Officer, Andhra Pradesh State Wakf Board addressed a letter to the Chief Engineer, A.P. TRANSCO requesting not to issue any service connection in the name of Smt.V.Bharathamma stating that she is unauthorized occupier of the Wakf property. But, the Chief Executive Officer, Andhra Pradesh Wakf Board has not submitted any documentary evidence in support of the same. Thus, it has been stated that in the light of the representation made by Smt.V.Bharathamma, the respondents have obtained a legal opinion and on the basis of the same, the impugned letter has been issued cancelling the service connection of the petitioner's premises and consequently disconnection was effected.

Having heard both the learned counsel and on a perusal of the material on record, it is clear that the service connection provided to the premises of the petitioner was disconnected without affording any opportunity to him to rebut the allegation that the petitioner has misrepresented the premises number as 12-2-399/1. May be that, Smt.V.Bharathamma claimed title in respect of the premises in question, but without affording an opportunity to the petitioner to explain the same, the respondents ought not to have disconnected the power supply. Moreover, from the counter-affidavit, it appears that the Andhra Pradesh State Wakf Board also made a claim that the said property belongs to it and that Smt.V.Bharathamma is in unauthorized occupation. Thus, there is a dispute as to the identity of the premises in question and also with regard to the ownership of the same. In the circumstances, I find force in the

contention of the learned counsel for the petitioner that the action of the respondents in disconnecting the power supply without notice to the petitioner is in violation of the principles of natural justice and on that ground alone it is liable to be set aside.

Accordingly, the impugned letter dated 24-8-2004 is set-aside and the Writ Petition is allowed with a direction to the respondents to provide the electricity supply to the petitioner forthwith. However, it is open to the respondents to initiate appropriate proceedings afresh after issuing notice to the petitioner to explain the allegations and after conducting due enquiry following due process of law.

Accordingly, the writ petition is allowed. No costs.

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18-11-2004

Note:- CC in 3 days.

(B/O)

kdl

To

1 The Managing Director, Central Power Distribution Company Limited, Vidyut Soudha, Khairatabad, Hyderabad-28.
2 The Asst.Engineer, APCPDCL, Asif Nagar, Section 17, Hyderabad.

3 Two C.D. Copies.